

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:12-CR-274-D

UNITED STATES OF AMERICA)
)
 v.)
)
 SILVINO LARA-LARA,)
)
 Defendant.)

ORDER

On March 4, 2014, without a written plea agreement, Silvino Lara-Lara (“Lara-Lara”) pleaded guilty to conspiracy to distribute and possess with the intent to distribute five kilograms or more of cocaine (count one), distribution of a quantity of cocaine and aiding and abetting (counts four and five), possession with intent to distribute a quantity of cocaine (count eight), and eluding examination and inspection by immigration officers (count eleven). See [D.E. 169, 286]. On July 8, 2014, the court held Lara-Lara’s sentencing hearing. See [D.E. 216, 227, 272]. At the hearing, the court adopted the facts set forth in the Presentence Investigation Report (“PSR”). See Fed. R. Crim. P. 32(i)(3)(A)-(B). The court calculated Lara-Lara’s total offense level to be 32, his criminal history category to be I, and his advisory guideline range on counts one, four, five, and eight to be 121 to 151 months’ imprisonment. See Resentencing Report. After thoroughly considering all relevant factors under 18 U.S.C. § 3553(a), the court sentenced Lara-Lara to 132 months’ imprisonment on counts one, four, five, and eight. See id.; [D.E. 227, 272]. Lara-Lara appealed. On May 15, 2015, the United States Court of Appeals for the Fourth Circuit affirmed this court’s judgment. See United States v. Lara-Lara, 603 F. App’x 203 (4th Cir. 2015) (per curiam) (unpublished).

On August 24, 2015, Lara-Lara filed a pro se motion for a sentence reduction [D.E. 313]. On November 18, 2015, Lara-Lara, through counsel, moved for a sentence reduction under 18 U.S.C. § 3582(c)(2), U.S.S.G. § 1B1.10, and Amendment 782. See [D.E. 319]. Lara-Lara's new advisory guideline range on counts one, four, five, and eight is 120 to 121 months' imprisonment, based on a total offense level of 30 and a criminal history category of I. See Resentencing Report. Lara-Lara requests a 120-month sentence on counts one, four, five, and eight. See id.; [D.E. 319] 2, 5.


The court has discretion to reduce Lara-Lara's sentence under Amendment 782. See, e.g., Dillon v. United States, 560 U.S. 817, 827 (2010); United States v. Peters, 843 F.3d 572, 574 (4th Cir. 2016); United States v. Patterson, 671 F. App'x 105, 105–06 (4th Cir. 2016) (per curiam) (unpublished); United States v. Cole, 618 F. App'x 178, 178–79 (4th Cir. 2015) (per curiam) (unpublished); United States v. Thomas, 546 F. App'x 225, 225–26 (4th Cir. 2013) (per curiam) (unpublished); United States v. Perez, 536 F. App'x 321, 321 (4th Cir. 2013) (per curiam) (unpublished); United States v. Smalls, 720 F.3d 193, 195–97 (4th Cir. 2013); United States v. Mann, 709 F.3d 301, 306–07 (4th Cir. 2013); United States v. Stewart, 595 F.3d 197, 200 (4th Cir. 2010). In deciding whether to reduce Lara-Lara's sentence, the court finds that Lara-Lara engaged in serious criminal behavior involving the distribution of 22 kilograms of cocaine. See PSR [D.E. 209] ¶¶ 10–34. Lara-Lara also has a spotty work history. See id. ¶¶ 51–56. Nonetheless, Lara-Lara has taken some positive steps while incarcerated on his federal sentence. See Resentencing Report; cf. Pepper v. United States, 562 U.S. 476, 491 (2011).

Having reviewed the entire record and all relevant policy statements, the court finds that Lara-Lara received the sentence that was “sufficient, but not greater than necessary” under 18 U.S.C. § 3553(a). Further reducing Lara-Lara's sentence would threaten public safety in light of his serious criminal conduct. Cf. U.S.S.G. § 1B1.10, cmt. n.1(B)(ii). Thus, the court denies Lara-Lara's motion

for reduction of sentence under Amendment 782. See, e.g., Patterson, 671 F. App'x at 105–06; Cole, 618 F. App'x at 178–79; Thomas, 546 F. App'x at 225–26; Perez, 536 F. App'x at 321.

In sum, the court DENIES Lara-Lara's motions for reduction of sentence [D.E. 313, 319].

SO ORDERED. This 30 day of May 2018.



JAMES C. DEVER III
Chief United States District Judge